



## COMMUNITY DEVELOPMENT DEPARTMENT

17555 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236  
Website Address: [www.morgan-hill.ca.gov](http://www.morgan-hill.ca.gov)

### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

JANUARY 8, 2008

PRESENT: Acevedo, Koepp-Baker, Benich, Davenport, Escobar, Mueller, Tanda

ABSENT: None

LATE: None

STAFF: Planning Manager (PM) Rowe, Deputy Director of Public Works (DDPW) Bjarke, and Minutes Clerk Johnson.

Chair Escobar extended greetings and wishes for a happy New Year as he called the meeting to order at 7:00 p.m., and then led the flag salute.

#### DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### OPPORTUNITY FOR PUBLIC COMMENT

With no members of the audience indicating a wish to speak to matters not appearing on the agenda, Chair Escobar opened, and then closed, the public comment period.

*Chair Escobar announced that the minutes of the December 11, 2007 Planning Commission meeting will be considered at the January 22, 2008 Commission meeting.*

#### PUBLIC HEARING:

**1) ZAA-98-11:** A City initiated amendment to the PUD, Planned Unit Development district located on the west side of Condit Road between Dunne Avenue and Tennant Avenue. The  
**CONDIT-CITY OF** proposed amendments will allow additional motor vehicle sales and service uses to  
**MORGAN HILL PUD** locate in the PUD district provided that no more than two such uses involve outdoor  
**AMENDMENT** sales display. Consideration will also be given to allowing commercial uses in the PUD that would be complementary to and would support the recreational uses in the area, and commercial uses serving the greater community.

PM Rowe presented the staff report, and provided a brief overview of the background of this issue. He explained that in 2000 the City Council approved a zoning amendment

## PLANNING COMMISSION MEETING MINUTES

January 8, 2008

PAGE 2

that established a Planned Unit Development (PUD) District on the west side of Condit Road, extending from Dunne Avenue south to Tennant Avenue. This action, PM Rowe said, was in response to concerns of an over concentration of one land use, specifically lodging accommodations within the area on the east side of Highway 101. This site was one of five city-initiated PUD designated in the City, with this site targeting the remaining undeveloped properties for uses to meet the needs of the traveling public and the sub-regional shopping needs of the area. PM Rowe told of inhibitors, which limited sales of autos and related items. Currently there are motor vehicle sales uses in the area: Alpine RV and Harley Davidson (all sales for the Harley dealership are contained within the building). The Community and Economic Development Subcommittee of the City Council recommended other uses so long as outside sales and service uses are limited to a maximum of two.

Additionally, PM Rowe advised, the subcommittee has recommended that another inhibitor (retail supportive of hotels) be removed as it is too restrictively limiting PM Rowe explained the rationale for deletions and additions as he called to attention to *permitted uses*. It was stressed that within the PUD commercial office uses should be limited to upstairs spaces. He went on to highlight a recommended Section to the Zoning Code defining automobile sales area (New section 18.04.044), which would be inclusive of vehicles such as camper, boats, trailers.

Discussion ensued with the following concerns/issues/support raised:

Commissioner Benich

financial offices would be located as retail (first floor only)

if amend Title 18, any exceptions in the Ordinance relating to signage to auto sales would require a Conditional Use Permit (CUP)

Commissioner Koepp-Baker

response from public [no; this is first public hearing; all property owners affected were notified]

Commissioner Mueller

{Objection} proposal seems to give up prime PUD to retail and will give developers the ability to 'build up' the area faster and easier than any other within the City because of its freeway visibility

Changes proposed will allow all businesses to promote public to this freeway access; the whole PUD was set up to draw public from freeway (originally)

setting up this area will have uses go in that could go in at Condit and Dunne (where without these restriction there is probably 75,000 ft. that could be used)

appears there is effort giving up this space designated to draw people off the freeway

PM Rowe remarked there is opportunity for larger development spaces at Condit and Dunne over to Murphy but here on Condit are smaller parcels, which might be attractive to developers and investors.

Chair Escobar

It is not clear what is being 'fixed'.

Are we circumventing intent of prior action? In terms of commercial uses – indoor – what is contemplated in terms of recreating uses? The kinds of uses contemplated about three years ago, we discussed convenience stores; however we can't have

## PLANNING COMMISSION MEETING MINUTES

January 8, 2008

PAGE 3

convenience stores within proximity of schools. Is it proposed to allow arcade centers with retail outlets such as convenience stores?

PM Rowe explained that a convenience market has been proposed in the retail center located behind Taco Bell. "It was recognized that a convenience store might be good, but that site was located too close to schools."

Commissioner Mueller pointed out that 'down 1,000 feet on Condit there could be convenience store. PM Rowe said the Commissioners could add arcade to the list of proposed uses.

Chair Escobar stressed the importance of not permitting adversely affecting uses within the area. "We might want to consider providing greater flexibility for retail and allow greater numbers of specific types of businesses.

Commissioner Koepp-Baker emphasized the focus of the original subcommittee was on increasing financial abilities for enhanced tax revenues to the City.

Chair Escobar open, and then closed, the public hearing as there were no persons present to address the matter.

Commissioner Mueller suggested breaking discussion of the matter into two parts:

- 1) Do we want to allow another outdoor vehicle sale(s) along Condit? Either we do or we don't
- 2) Opening up retail to this site. "I'm very concerned that by allowing retail sales here, which has greater potential on the other side – originally this area's plan was set up to draw people off the freeway because of the known higher value of the land because of the potential of drawing freeway traffic to the site," Commissioner Mueller said.

Commissioner Acevedo disagreed, saying, "Here the rents can be set higher so businesses can afford to offer retail. I think this offers greater flexibility. We have seen that businesses are not rushing to establish business at this site. Now, there is only Patio World."

Commissioner Mueller expressed concern that if on a second floor there are designated spaces for general office, it would lower the threshold allowing more people to rent at the detriment of other businesses. "This could lower the threshold dramatically resulting in lower use and we would lose the ability to have business drawn from the freeway," Commissioner Mueller said. Commissioner Acevedo argued this plan would be better for the City. Commissioner Mueller continued to press a 'very large concern' that lower rents could result with no upper floor retail. "We will be giving away freeway visibility space," he declared. Commissioner Mueller called attention that Cochrane is done; Dunne is completed except for this PUD, and Tennant has not started yet.

Commissioner Benich said he wanted to see high revenue dollar businesses along Condit. "I'm struggling as I want to see more vehicle sales but think it would be better concentrated around existing sales areas.

## PLANNING COMMISSION MEETING MINUTES

January 8, 2008

PAGE 4

Commissioner Acevedo remarked that there is not enough space for dealerships as there are no five acre parcels there.

Commissioner Mueller recalled that there is a PUD for a car dealership north of the Ford Store.

Commissioner Tanda stated that he thought what the City is facing is an area that is 'prime' and could have been developed previously. "This mix that is there may not be attractive enough for development. The economy will determine what goes in there. (As an aside, he confirmed what Commissioner Mueller has said). What is on the first story of the buildings is important. Considering the proposed uses, I think expanding them is not unreasonable. I would like to see auto sales – especially specialty auto sales – considered," Commissioner Tanda said.

Commissioner Mueller cautioned that the Commissioners must 'take care' in considering the way the draft has been written. "The ability to say what will be going in there could be easily lost. There could be a 7-11 with slight change of wording," he said.

Chair Escobar pointed out that in theory (at the location north of the Ford Store) the City could see sales in support of vehicle uses: boat sales, retail that sales of auto parts (vehicle repair would prohibited, however).

Commissioner Mueller continued to voice concern, saying, "The problems with opening the availability so wide is not a problem with outside sales. The major issues will be if that area is opened up to retail."

Commissioner Koepp-Baker stressed the need for revenue generation. "Those large auto sales could give us what would be a venue to draw visitors/consumers off the freeway," she said.

Commissioner Mueller reminded that the target had been to enhance tourism with such sales as wine-tasting. "When we look back to the original PUD, there was one coordinated thing, but if we chop it up to envision any retail use to draw people off the freeway, a restaurant could work. However, to open it so wide and lower the threshold because of freeway visibility could be very detrimental," he said.

Chair Escobar interjected, "An arcade would be compatible because of the Soccer Fields and the Aquatic Center."

Commissioner Mueller responded that the intent was not 'as much of a draw as drawing off the freeway'.

Chair Escobar responded that it appears the area with limited uses could cause delay and waiting for just right kind of retail to come in.

Commissioner Mueller insisted that the language could be broaden to draw the traveling public from the freeway.

## PLANNING COMMISSION MEETING MINUTES

January 8, 2008

PAGE 5

Commissioners engaged in discussion by stating opinions:

### Commissioner Acevedo

- open uses even more
- maybe more fast food
- open more up restaurant availability
- cross out 'sit-down'
- delete set number of fast foods (have more than one)
- will be high rent district; so eliminate lower traffic businesses
- in favor of arcade (don't see problem; would be welcomed)
- willing to consider convenience store or industrial uses
- maybe prohibition on too intensified semi-industrial uses
- not limit restaurants to sit-down

### Commissioner Koepp-Baker

- vehicle dealership (auto, boat) OK
- arcade not bad idea
- ok with fast foods
- need to generate revenues in city

### Commissioner Mueller

- this very limited resource only so much land near freeway
- better to have high visibility businesses
- offices on second floor settings would be detrimental to retail
- 

### Commissioner Benich

- in favor of PUD limited auto repair
- this is gateway to Math Institute
- need to have high visibility
- need to be aware what City has slated for the south part of Morgan Hill
- elementary schools locations
- Conditional Use for indoor recreational system: in favor of better control
- more restaurants

### Commissioner Davenport

- spends a lot of time in the area (at the Outdoor Sports Center)
- except for Patio World, very little retail
- ok with outdoor display
- likes staff recommendation
- not concern of proposed upstairs uses

### Commissioner Tanda

- supportive of staff recommendation
- thinks the proposal can attract specialty business by opening opportunities for appropriate business good
- concerned with lifting the fast food provisions and uncertain how the area would development without limits on fast food

PM Rowe explained that with the PUD as originally set up allowed only one fast food restaurant, the existing Carl's Jr.

## PLANNING COMMISSION MEETING MINUTES

January 8, 2008

PAGE 6

### Commissioner Tanda

- another fast food worth considering thinks
- not comfortable with more than one fast foods restaurant
- doesn't want fast food row

### Chair Escobar

- soccer fields and aquatic center not intended to draw people off freeway – that is destination
- part of question is whether the focus of generating revenue or limiting the use to draw from the freeway?
- issue (from his prospective): if revenue generation is most important, then the attention should be given to enable the City to attract businesses on those sites
- 2<sup>nd</sup> story use: very few retail on secondary stories are successful; people are not attracted to 2<sup>nd</sup> story retail unless the location is a very high urban center
- a convenience store might be good for residents and visitors and meet needs of those drawn to the Soccer Fields and the Aquatic Center
- likes recommendation
- not opposed to having most of the fast foods in this area of great service collected
- thinks this site provides better grouping of businesses for additional revenue - and does not draw away from downtown

Commissioner Acevedo asked how many fast food establishments might be considered?

Chair Escobar responded, “Maybe one more, and perhaps others following an evaluation by the Planning Commission.” Commissioner Acevedo advocated for two additional fast food restaurants as he talked about the potential of fast foods within an arcade and/or miniature golf business.

Commissioner Mueller was adamant of the ‘need to think of the amount of land near the freeway and what would best be placed there’. “Certain businesses need high visibility,” he said. “Some need freeway visibility. This plan is going to get businesses less than 1,000 feet from the freeway.”

PM Rowe remarked there appeared to be an overall consensus supportive for the subcommittee recommendation. Discussion ensued regarding the numbers of drive-thru fast food restaurants and placing indoor recreation arcade in a Conditional Use Permit.

**COMMISSIONER ACEVEDO OFFERED A RESOLUTION RECOMMENDING APPROVAL OF A ZONING AMENDMENT AMENDING THE DEVELOPMENT PLAN AND DESIGN GUIDELINES FOR A PUD DISTRICT ON THE WEST SIDE OF CONDIT ROAD BETWEEN DUNNE AND TENANT AVENUES AND AMENDING THE DEFINITIONS CHAPTER IN TITLE 18 OF THE MUNICIPAL CODE, HAVING AS A CONDITIONAL USE: FAST FOOD (LIMITED TO 2) WITH NO MORE THAN ONE WITH A DRIVE-THRU.**

**PLANNING COMMISSION MEETING MINUTES**

**January 8, 2008**

**PAGE 7**

Commissioner Mueller clarified the intended change:  
**two fast food restaurants**  
**(Add) one drive-thru**

**COMMISSIONER DAVENPORT SECONDED THE MOTION, NOTING THE INCLUSION OF THE FINDINGS AND CONDITIONS TOGETHER WITH THE STATED MODIFICATIONS.**

Commissioner Tanda asked clarification that only a vote of the Planning Commission would permit the Conditional Use of additional fast food restaurants. Chair Escobar explained the motion indicated that the Planning Commission would be 'ok' with one-plus fast food and would be agreeing **to** look at others on a case by case basis.

Commissioner Tanda said, "I cannot support the motion because of concerns of this on existing businesses. If we allow additional fast food restaurants, it could hurt existing businesses."

Chair Escobar reminded that the Commission can consider fast food uses with a Conditional Use Permit (CUP).

Commissioner Mueller recalled that in most all cases, economics cannot be considered in working with a CUP.

**THE MOTION PASSED (5-2-0-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR; NOES: MUELLER, TANDA, with both referring to objects stated during discussion; ABSTAIN: NONE; ABSENT: NONE.**

**2) PROPOSED  
FY 2008/09 – 2012/13  
CIP**

Request for Planning Commission discussion, input and comments on the proposed CIP document development for the upcoming fiscal year.

DDPW Bjarke presented the staff report, noting that the CIP is usually presented to the Commissioners annually in April and the document distributed to the Planning Commissioners is generally a 'pretty well finished document'. DDPW Bjarke reminded that the Commissioners are charged with perusing the CIP for consistency with the City's General Plan. "We are bringing the draft CIP to you earlier this year for discussion following a broad overview and discussion of any items new from the Commissioners," DDPW Bjarke said.

- To be considered as eligible projects for CIP funding, DDPW Bjarke said, the projects must be public property or right-of-way
- must have a funding source
- must have a maintenance or operating plan

Utilizing a slide show and handouts, DDPW Bjarke presented the CIP for each of the following areas:

- Park Facilities
- Public Facilities
- Sanitary Sewer
- Storm Drainage
- Streets and Roads
- Water

## PLANNING COMMISSION MEETING MINUTES

January 8, 2008

PAGE 8

Stressing fiscal considerations from the Finance Department which must identify impacts to maintenance and operations plan, DDPW Bjarke gave an overview of the plans inclusive for Capital Improvement Projects for the upcoming five years.

Considerable discussion ensued regarding:

- purchase of public rights of way (get early – get cheaper)
- parkland: if not acquired early, will lose to some other use [PM Rowe advised the Parks and Recreation Commission plan discussion of park land purchase in the very near future]
- consideration of fire safety needs
- flood-proof construction (closure and flood shields)
- need to keep PL 566 moving, and ensure funding involvement of Santa Clara County Water District and the Federal Government
- big detention pond remains in the CIP; perhaps the detention plan should be tied to the right-of-way channel on the Watsonville extension; when land is purchased, detention pond could be started without waiting for other construction/funding (potential for RDA funding and accessing VTA funds)
- resurfacing projects on streets; funding for maintenance
- need for resurfacing Llagas Road and to extend that street
- pavement rehab plan need more monies than shown (pavement management relies on State funds – not readily accessible)
- reconstruction instead of maintenance; annually more streets go into red zone. (Meaning more expensive repair costs in the future)
- not a lot of revenue for roads (the Commissioners urged DDPW Bjarke to strive for creativity)

PM Rowe commented that when one looks at the growth of the city, in the 1970s and 80s there was considerable growth, and a lot of roads built. Now, he said, as the City grows, it moves along a larger percentage of roads needing upkeep and maintenance.

DDPW Bjarke was directed to bring to the April Commission meeting a fiscal estimate of the degree of the problem. It is believed that the sewer and storm drains are ‘in the same fix’.

Discussion continued:

- used to have gas tax for roads; but not now
- consideration of a higher priority for electrical under-grounding in areas of high outages (DDPW Bjarke explained the under-grounding program in conjunction with PG&E)
- traffic signal synchronization
- General Plan Circulation Element needs to be looked at in execution and proactive

Commissioner Tanda urged consideration of a 20-year capital fiscal plan with the annual (5-year) CIP as an increment of the 20-year plan.

Commissioner Benich reminded that last year he said he wanted to see a water recycle plan and announced that he had again been giving such a plan considerable thought. Commissioner Bench said he wanted to see line item put into the CIP for a study for a water recycling project and suggested the inclusion of a \$50,000 line item for the



## PLANNING COMMISSION MEETING MINUTES

January 8, 2008

PAGE 9

project in the June 08 – December 09 budget time.

“I think we should be able to work on a plan for specific recycling, review how other Cities are conducting water recycling, and investigate a project of our own,” Commissioner Benich declared. He went on to speak to funding issues, the potential for irrigation uses, and the need to emphasize reserving water for drinking. While declaring it was incumbent on the Planning Commission to look after the resources for water and energy conservation, Commissioner Benich read the following statement into the record: *“The use of water for irrigating lawns, plants, shrubs, and trees comes primarily from underground water aquifers. With increasing population, the need to preserve and protect the use of clean and fresh underground water will become increasingly important. We need to begin planning now on how to save our precious water resources for drinking and other household needs, and utilize recycling and reuse of water for the purpose of irrigation. Proposed scope of plan:*

- 1) to study how specific water supplies may be recycled and reused for irrigation purposes*
- 2) to review how other cities are recycling and reusing water supplies*
- 3) to investigate sources of funding to initiate a demonstration project in the City of Morgan Hill*

*Potential sources of funding:*

- a) City of Morgan Hill and the RDA*
- b) Developers of new housing projects as part of the competitive process for obtaining building allocations under Measure C*
- c) Grants from the Santa Clara County Water District*
- d) Grants from the State of California*
- e) Grants from the Federal Government”*

“At the very least, we need a demonstration project,” Commissioner Benich said, “and we may need to have requirement for new development.” DDPW Bjarke referenced the South County Recycled Water Master Plan (1994) which he said ‘provides the most benefit to Gilroy’.

Commissioner Benich said there was no need at the present time to look at a tertiary process. Health issues regarding recycled water were discussed. Commissioner Benich stressed the need to see what others area doing so the City can see what it can do for recycling.

Having made note of the various concerns of the Commissioners during the discussion – and describing some of those concerns as ‘on-going’, DDPW Bjarke stated that he would make efforts to fold the discussion items into the CIP for the April presentation.

### ANNOUNCEMENTS:

Having explained the rationale for originally suggesting the January 22, 2008 Commission meeting be scheduled for 5:00 p.m., PM Rowe described the work being done and estimated that beginning the meeting time that date could be 6:00 p.m., while ensuring that all business could be we accomplished. The Commissioners agreed and following a straw vote of all the Commissioners present – with none absent – **CHAIR ESCOBAR STATED THAT THE MEETING OF THE PLANNING COMMISSION WOULD COMMENCE AT 6:00 P.M. ON JANUARY 22, 2008.**

PM Rowe advised that on January 22, staff recommendations would be heard, and then

**PLANNING COMMISSION MEETING MINUTES**

**January 8, 2008**

**PAGE 10**

on the 29<sup>th</sup> the Commission will be asked to approve the scores for recommendation to the Council for the allocations. "It's a tight schedule, but meets the deadlines set forth in Measure's "C" and "F," PM Rowe said.

PM Rowe invited the Commissioners to attend the CA Planners Institute in March. Several Commissioners indicated intent to attend, and Commissioner Mueller stressed the need to make sure all pertinent sessions were covered.

**ADJOURNMENT:** Ascertaining there was no further business to come before the Commissioners, Chair Escobar declared the meeting adjourned at 9:40 p.m.

**MINUTES PREPARED BY:**

---

**JUDI H. JOHNSON, Minutes Clerk**